

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2005-003055

10/24/2011

JUDGE M. SCOTT MCCOY

CLERK OF THE COURT

A. Ocanas

Deputy

IN RE THE MATTER OF
SERGIO A ARROYOS

CHRISTOPHER POST

AND

NEIDA A MONCADA

NEIDA A MONCADA
9207 W PAYSON RD
TOLLESON AZ 85353

OFFICE OF PUBLIC DEFENSE
SERVICES-CCC

MINUTE ENTRY

Following a temporary orders hearing on October 12, 2011, the Court took this matter under advisement. Having considered the evidence and argument presented, the Court now rules.

The parties' marriage was dissolved on November 24, 2005; Mother was awarded sole legal custody and Father limited to supervised parenting time. Father's current motion asks the Court to award him sole legal custody, alleging Mother has mental health problems, has failed to enroll the youngest child in school and has committed domestic violence against him.

The evidence presented leaves the Court with very limited clarity. First, Father has completed a domestic violence offender program, and Mother's other concerns about his parenting judgment do not rise to the level justifying supervised parenting time.

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IT IS THEREFORE ORDERED that Father is entitled to unsupervised parenting time, effective immediately.

Both parties agree that both children are now enrolled in school, and Mother testified credibly that she had been home schooling Salma. The Court has concerns about Mother's mental health, but her behavior may be attributable to cultural issues, a language barrier, or both. And the evidence presented about Mother's alleged domestic violence on Father was unpersuasive.

IT IS THEREFORE ORDERED affirming the custody and parenting time orders entered on November 24, 2005 pending trial, except that Father's parenting time no longer needs to be supervised.

COURT APPOINTED ADVISOR APPOINTED

IT IS FURTHER ORDERED appointing a Court Appointed Advisor for the minor children, Samanta Arroyos (DOB: August 2, 1995) and Salma Arroyos (DOB: March 22, 2001), regarding parenting time and custody issues in this matter. A separate minute entry will issue regarding the appointment of the Court Appointed Advisor.

THE COURT FINDS that both parties are indigent and that the County shall pay for the fees regarding the Court Appointed Advisor.

IT IS ORDERED that the Court Appointed Advisor shall provide a report to the Court on or before **December 1, 2011**.

EVIDENTIARY HEARING AFFIRMED

IT IS ORDERED affirming Evidentiary Hearing in this matter as follows:

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall exchange updated disclosure statements required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 60 days prior to the hearing.

2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed at least 15 days prior to the hearing.

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3. Counsel and both parties shall personally meet, face to face, at least 20 days prior to the hearing to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company or business, medical or health care provider, or employer possessing any relevant and discoverable information.

5. **Continuances.** Motions to continue the Evidentiary Hearing filed more than 45 days before the hearing will not be granted absent a showing of good cause. Motions to continue the hearing filed less than 45 days before the hearing will not be granted absent a showing of extraordinary circumstances.

IT IS ORDERED affirming Evidentiary Hearing to the Court on **December 7, 2011 at 3:00 p.m. (2 hours allowed)** before:

The Honorable M. Scott McCoy
Maricopa County Superior Court
Central Court Building
201 W. Jefferson
Courtroom 606
Phoenix, AZ 85003

Failure of a party to appear may result in the Court allowing the party who does appear to proceed by default. Failure of both parties to appear may result in this action being dismissed.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least 30 days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

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IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a Joint Pre-hearing Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 business days prior to the hearing.

IT IS FURTHER ORDERED that the Joint Pre-hearing Statement shall include:

1. A current Affidavit of Financial Circumstances completed by each party.
2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.
3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. § 25-351 et seq.
5. If there are disputed issues regarding division of property, a current and detailed Inventory of Property and Debts, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the court prefers a one-page statement of all property except personal property items valued at less than \$500 each.
6. If spousal maintenance is requested and disputed, each party shall state the amount and duration of spousal maintenance requested.
7. If division of debts is an issue, the parties shall prepare and exchange a list of all debts, including creditor's name, amount of debt, monthly payment amount, the reason the debt was incurred, who should pay the debt, and all of the information required by A.R.S. § 25-318(H).
8. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), Arizona Rules of Family Law Procedure.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of hearing, or to timely present the Joint Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D) and 91(Q), Arizona

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Rules of Family Law Procedure, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

IT IS FURTHER ORDERED that if either party has exhibits to be marked, all exhibits shall be delivered to the Clerk of this Division **at least five (5) business days prior to the hearing.** Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits. **All exhibits must be clearly identified, stapled separately and separated by a COLORED sheet, and shall be hand-delivered directly to this Division at least five (5) business days prior to the hearing, located in Suite 6E of the Central Court Building.** Failure to submit all exhibits by that date will result in those items being prohibited from being utilized at the hearing. **Exhibits shall not be delivered to the mailbox or to Court Administration.**

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-hearing Statement shall be summarily admitted.

NOTICE

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure. Should the parties reach a full agreement prior to the date of the hearing, the Court will consider a motion to vacate the hearing **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT.**

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NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division five (5) business days before the scheduled hearing.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. M. SCOTT McCOY

HON. M. SCOTT McCOY
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.